

REMARKS

Entry of the foregoing, reexamination and reconsideration of the above-identified application are respectfully requested.

The claims have been amended to rewrite dependent claims indicated to be directed to allowable subject matter as independent claims. New claims 57, 60, 62 and 65 correspond to prior claims 44, 46, 48 and 50, respectively. Matters of form have also been amended in these new claims, as well as in amended claims 51-56. No new matter is presented by this amendment. New claims 58, 59, 61, 63, 64 and 66 are directed to preferred embodiments of the independent claims. Support is found in the original claims.

Claims 8-10, 15-17, 43, 44, 47-49 and 51-56 have been rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. These rejections are rendered moot by the instant amendment.

Claim 8 was said to not provide antecedent basis for claim 15's recitation of "the nitrogen source." Claims 8 and 15 have both been deleted by this amendment.

Claims 51-56 are said to be indefinite by using "improper Markush grouping." The claims have been amended to recite "and" rather than "and/or." The claims have also been amended to make clear that the unsaturated fatty acid may be "at least one" of the specified fatty acids. More than one unsaturated fatty acid or a lipid containing more than one unsaturated fatty acid can be produced by the claimed processes. The use of "or lipid" is sufficiently definite. The claims have been amended to make more clear that it is an unsaturated fatty acid or lipid containing such an unsaturated fatty acid as specified in the claim, that is being produced.

In claims 8-10, 15-17, 43, 44 and 47-49, the Examiner asserts that the “metes and bounds of ‘subgenus *Mortierella*’ are not readily apparent to one of ordinary skill in the art.” The claims of record now specify particular *Mortierella* species which can be employed. This aspect of the rejection is now moot.

Claims 8-10, 15-17, 43, 44, 47 and 48 have again been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Suzuki et al taken with Manoh et al and Yamaguchi et al. This rejection has been rendered moot by the instant amendment.

Claims 45, 46 and 49-56, “wherein specific genera of *Mortierella* are cultured at the conditions touted to produce specific unsaturated fatty acids,” were said to be allowable. As stated *supra*, new claims 57, 60, 62 and 65 correspond to prior claims 44, 46, 48 and 50, respectively. These claims should thus be in condition for allowance. In addition, the claims dependent therefrom should also be in condition for allowance.

Still further, claims 51-56 are now in condition for allowance. These claims were amended only to correct matters of form.


In view of the above, further and favorable action in the form of a Notice of Allowance is respectfully requested. Such action is believed to be in order.

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In the event that there are any questions relating to this Amendment, or to the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney at (650) 622-2360 concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,

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Date: April 29, 2003